

**FACTUAL PREDICATE STUDY
FOR
LEON COUNTY
BOARD OF COUNTY COMMISSIONERS**

PREPARED FOR:

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SUBMITTED BY:

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EXECUTIVE SUMMARY

In December 2001, the Board of County Commissioners for Leon County, Florida (County) contracted MGT of America, Inc. (MGT) to conduct a factual predicate study of minority and woman-owned business enterprise (M/WBE) participation in County procurements. This study updated the 1994 *Minority/Women Business Enterprise Disparity Fact Finding Study* conducted by MGT and focused on the changes that occurred in the marketplace and levels of M/WBE participation in County procurements since the 1994 study.

MGT's technical approach to conduct this study included:

- determining the number of contracts, subcontracts and purchase order expenditures awarded to M/WBEs and non-M/WBEs in order to establish the relevant market area by procurement category;
- analyzing available utilization data to determine the relative distribution of awards by business category to M/WBEs and non-M/WBEs;
- determining the pool of available contractors, subcontractors and vendors that could have provided goods and services to the County;
- conducting a survey of a statistically reliable sample of contractors, subcontractors and vendors to gather business information and other information that would be helpful in evaluating the County's current M/WBE program; and
- comparing the utilization and availability data to determine the absence or presence of disparity.

Relevant Market Area, Utilization and Availability Analyses

Four business categories were used to delineate the County's relevant market areas and the utilization of M/WBEs and non-M/WBEs:

- construction;
- professional services;
- other services; and
- materials and supplies.

These categories were consistent with the County's classification of contracts awarded and payments made by the County during the five year study period. Each contract awarded or vendor payment was grouped into one of the above categories by MGT with assistance from County staff knowledgeable about the contracts and payments. The definitions used to group the contracts and payments were as follows:

Construction

Any construction related services, including but not limited to:

- building, repairing, improving, or demolishing any public structure building; and
- other public improvement of any kind to any public real property.

The construction business category did not include routine operation, routine repair, or routine maintenance of existing buildings or facilities.

Professional Services

Any services requiring special licensing, educational degrees, and unusual or highly specialized expertise including, but not limited to:

- architectural/engineering services;
- financial services;
- legal services;
- medical services; and
- advertising/marketing services.

Other Services

Any service that is labor intensive and not professional or construction related, including, but not limited to:

- maintenance services;
- janitorial services;
- lawn services;
- employment services; and
- printing services.

Materials and Supplies

Equipment and consumable items purchased in bulk, or a deliverable product including, but not limited to:

- equipment and parts;
- chemicals; and
- paper products and or office supplies.

Businesses classified as M/WBEs were firms that were at least 51 percent owned and controlled by members of one of five groups. The M/WBE categories used in this study are the same as those used in the 1994 study and similar to the categories used by the United States Department of Commerce, Bureau of the Census, to report basic economic data on businesses. These groups were defined as follows:

- **African Americans:** U.S. citizens or lawfully admitted permanent residents having an origin in any of the black racial groups of Africa.
- **Hispanic Americans:** U.S. citizens or lawfully admitted permanent residents of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origins regardless of race.
- **Asian Americans:** U.S. citizens or lawfully admitted permanent residents who originate from the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.
- **Native Americans:** U.S. citizens or lawfully admitted permanent residents who originate from any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.
- **Women:** U.S. citizens or lawfully admitted permanent residents who are non-Hispanic white females. Minority women were included in their respective minority category.

Relevant Market Area. The relevant market area is defined as the geographic area where the County spent 75 percent or more of its total dollars over the study period. The relevant market area was determined for each business category. The first step was to sum the dollars awarded in each county according to business category. The counties were listed according to the number of firms awarded dollars for providing goods or services, and then by the dollar amounts awarded. Succeeding counties were added, as needed, until at least 75 percent of the total dollars was included.

The relevant market area for each business category was determined to be:

- Construction – Leon County and Bay County, Florida
- Professional Services – Leon County, Florida
- Other Services – Leon County, Florida, which accounted for 49 percent of the total dollars, and 16 other counties (see Chapter 2.0 of this report for a detailed listing of the other counties)
- Materials and Supplies – Leon County, Florida, which accounted for 39 percent of the total dollars, and 22 other counties (see Chapter 2.0 of this report for a detailed listing of the other counties)

Utilization. After the relevant market area was determined for each business category, firms within that relevant market area were categorized based on their ownership and control. From this categorization and analysis, the utilization of M/WBEs and non-minority firms was determined. MGT calculated the percentage of dollars awarded or paid to each group within the relevant market area for each fiscal year of the study period by business category.

Availability. To determine availability, MGT created a Master Vendor Database of firms. This database consisted of firms that were willing, available, or able to perform work for the County. Over 6,500 firms were included in the Master Vendor Database. MGT utilized several sources to determine prime and subcontractor availability to develop the appropriate availability data within the relevant market area.

Statistical Analysis

Disparity. A disparity index is used to measure the difference between utilization and availability. Several post-Croson cases, most notably *Contractors Association of Eastern Pennsylvania v. City of Philadelphia*, support the use of disparity indices for determining disparity within the marketplace.¹ For this study, the ratio of the percentage of utilization to the percentage of availability multiplied by 100 serves as our measure of choice. Our rule of thumb is that a disparity index of less than 80 indicates that the level of disparity warrants further investigation. The disparity index threshold of 80 is based on the Equal Employment Opportunity Commission's (EEOC) adopted "80 percent rule" in the *Uniform Guidelines on Employee Selection Procedures*.

Exhibit 1 summarizes our disparity analyses by business category and business owner classification. For reference, we also present the disparity indices from the 1994 study.

¹ *Contractors Ass'n of Eastern Pennsylvania, Inc. v City of Philadelphia*, 91 F 3d at 603.

EXHIBIT 1 COMPARISON OF DISPARITY ANALYSES

BUSINESS OWNER	PROPORTION OF CONTRACTS	PROPORTION OF DISPARITY ANALYSES	DISPARITY ANALYSIS
1989-1993	0.00%	7.00%	0.00
African Americans	0.00%	7.00%	0.00
Hispanic Americans	0.00%	0.18%	0.00
Asian Americans	0.00%	0.14%	0.00
Native Americans	0.00%	0.06%	0.00
Nonminority Women	0.00%	7.97%	0.00
Nonminority Firms	100.00%	84.65%	118.13
1997-2001	0.37%	22.09%	1.67
African Americans	0.37%	22.09%	1.67
Hispanic Americans	0.08%	1.20%	7.01
Asian Americans	0.00%	0.40%	0.00
Native Americans	0.00%	0.40%	0.00
Nonminority Women	1.15%	3.21%	35.85
Nonminority Firms	98.39%	72.69%	135.36
1989-1993	5.34%	7.00%	76.29
African Americans	5.34%	7.00%	76.29
Hispanic Americans	0.00%	0.18%	0.00
Asian Americans	0.00%	0.14%	0.00
Native Americans	0.00%	0.06%	0.00
Nonminority Women	8.63%	7.97%	108.28
1997-2001	14.37%	22.09%	65.06
African Americans	14.37%	22.09%	65.06
Hispanic Americans	0.00%	1.20%	0.00
Asian Americans	0.00%	0.40%	0.00
Native Americans	0.35%	0.40%	87.17
Nonminority Women	3.60%	3.21%	112.18

EXHIBIT 1 (Continued)
COMPARISON OF DISPARITY ANALYSES

Business Type Classification	Contract Dollars	Not Applicable Firms	Disparity Index	Disparity Analysis
<i>Professional Services</i>				
1989-1993				
African Americans	0.59%	1.60%	36.88	* Underutilization
Hispanic Americans	0.00%	1.06%	0.00	* Underutilization
Asian Americans	0.00%	1.51%	0.00	* Underutilization
Native Americans	0.00%	0.03%	0.00	* Underutilization
Nonminority Women	1.00%	39.73%	2.52	* Underutilization
Nonminority Firms	98.41%	56.08%	175.48	Overutilization
1997-2001				
African Americans	4.69%	23.25%	20.15	* Underutilization
Hispanic Americans	0.00%	0.96%	0.00	* Underutilization
Asian Americans	1.30%	0.64%	203.82	Overutilization
Native Americans	0.00%	0.00%	0.00	Not Applicable
Nonminority Women	6.25%	17.20%	36.36	* Underutilization
Nonminority Firms	87.76%	57.96%	151.42	Overutilization

Business Type Classification	Contract Dollars	Not Applicable Firms	Disparity Index	Disparity Analysis
<i>Other Services</i>				
1989-1993				
African Americans	6.00%	4.11%	145.99	Overutilization
Hispanic Americans	0.00%	13.59%	0.00	* Underutilization
Asian Americans	0.00%	15.88%	0.00	* Underutilization
Native Americans	0.00%	0.36%	0.00	* Underutilization
Nonminority Women	2.51%	13.39%	18.75	* Underutilization
Nonminority Firms	91.49%	52.66%	173.74	Overutilization
1997-2001				
African Americans	13.29%	6.93%	191.70	Overutilization
Hispanic Americans	4.00%	0.27%	1,498.20	Overutilization
Asian Americans	0.65%	0.27%	241.90	Overutilization
Native Americans	0.00%	0.00%	0.00	Not Applicable
Nonminority Women	11.77%	6.93%	169.82	Overutilization
Nonminority Firms	70.29%	85.60%	82.12	Underutilization

EXHIBIT 1 (Continued)
COMPARISON OF DISPARITY ANALYSES

Business Order Classification	1989-1993 Dollars	1997-2001 Dollars	Disparity Index	Disparity Analysis
<i>Materials and Supplies</i>				
1989-1993				
African Americans	0.00%	5.04%	0.00	* Underutilization
Hispanic Americans	0.00%	1.63%	0.00	* Underutilization
Asian Americans	0.00%	1.48%	0.00	* Underutilization
Native Americans	0.00%	0.03%	0.00	* Underutilization
Nonminority Women	4.77%	8.36%	57.06	* Underutilization
Nonminority Firms	95.23%	83.44%	114.13	Overutilization
Purchase Orders:				
African Americans	2.02%	5.55%	36.40	* Underutilization
Hispanic Americans	0.10%	1.98%	5.05	* Underutilization
Asian Americans	0.00%	1.88%	0.00	* Underutilization
Native Americans	0.01%	0.04%	25.00	* Underutilization
Nonminority Firms	90.72%	81.08%	111.89	Overutilization
1997-2001				
African Americans	0.68%	2.86%	23.63	* Underutilization
Hispanic Americans	0.07%	0.26%	27.90	* Underutilization
Asian Americans	0.00%	0.26%	0.00	* Underutilization
Native Americans	0.00%	0.00%	0.00	Not Applicable
Nonminority Women	15.44%	5.99%	257.73	Overutilization
Nonminority Firms	83.81%	90.63%	92.48	Underutilization

Findings and Recommendations

Our analysis found patterns of underutilization that were similar to patterns of underutilization in the 1994 study for the following categories:

- M/WBEs as construction prime contractors;
- M/WBEs, with the exception of Woman-owned firms as subcontractors;
- Firms owned by African Americans, Hispanic Americans, and Women for professional services contract awards; and
- Firms owned by African Americans, Hispanic Americans, and Asian Americans as materials and supplies vendors.

We recommend that the County conduct additional research to identify the causal factors resulting in what appears to be ongoing underutilization for the groups identified above and periodic underutilization for other business groups.

Anecdotal research is required to determine if unfair business practices exist or if there is a perception of unfair business practices that prohibits M/WBE participation. Additionally, the anecdotal research should gather data from M/WBEs to augment the findings derived from the multivariate analysis presented in this report, which was primarily submitted by non-M/WBEs.

Additionally, research is needed regarding the legal parameters for procurement programs designed to remedy underutilization, and a supplemental review of the County's procurement policies and procedures to determine if there are inherent barriers to M/WBE participation. (MGT conducted Purchasing Policy and MBE Program Review for the County and submitted a report of the findings in a report dated December 12, 2000. Our recommendation for the supplemental study is that there be analysis of the implementation of the recommendations in that report and research conducted on the effectiveness of the current policies and procedures in facilitating M/WBE participation in County procurements).

Finally, the supplemental analysis should recommend steps to develop narrowly-tailored program remedies that address identified issues. The consolidation of the research findings in this report and the results of the supplemental analysis will provide support to for the County to determine the need for and future direction of a remedial procurement program.